

Internal Revenue Service
Memorandum
DL-100195-95
Br4:JBernstein

date: August 26, 1996

to: National Director, Compliance Research CP:R

from: Chief, Branch 4 (Disclosure Litigation) CC:EL:D

subject: "Ask the IRS" Project - Answering E-Mail From Taxpayers

This responds to your inquiry regarding possible disclosure concerns with the "Ask the IRS" project.

Issue

You have asked several specific questions, all of which are related to the ultimate issue of whether there are any limitations on the manner in which the IRS may respond to general law questions submitted by electronic mail.

Conclusion

Based on our understanding of the operation of the "Ask the IRS" project, the IRS may respond to general tax law questions by electronic mail in the same manner as is currently done with respect to questions submitted by telephone.

Analysis

We understand that the "Ask the IRS" project is intended to respond by electronic mail the same type of questions currently handled by Taxpayer Services over the telephone. That is, the project is geared to answer general tax law questions as opposed to those concerning a particular taxpayer's account or a specific IRS action with respect to a taxpayer's account. Under these circumstances, your project does not raise any tax disclosure problems under I.R.C. § 6103, since you will be providing assistance without the need for independent reference to or disclosure of confidential tax information.¹

¹ "Return information" is defined by I.R.C. § 6103(b)(2). Although the statutory definition is broad in scope, it is designed to protect anything received by, recorded by, prepared by, furnished to, or collected by the IRS with respect to a return or the determination of the existence or possible existence of liability or the amount of liability under the Internal Revenue Code.

This answer does not change even though a taxpayer may pose questions in the first person rather than in the abstract (i.e. "Can I deduct the points on the refinancing of my mortgage?" rather than "Are points on a mortgage refinancing deductible?"). With respect to general tax law questions answered by electronic mail, even when the question is posed in the first person, these answers would not constitute return information. As is currently done over the telephone, to the extent Taxpayer Service representatives can engage in discussions without accessing return information, they should not hesitate in providing the general information requested.

A different situation would arise if it were necessary for the Taxpayer Service representative to access return information to respond to an inquiry pertaining to a specific taxpayer's dealings with the IRS, for example, researching specific transactions pertaining to the taxpayer such as the manner in which a return was filed, payments, notices, collection activity, etc. The IRS' response could under these circumstances constitute return information. In recognition of this, it is our understanding that the IRS' practice, in instances when e-mail questions are submitted with specific reference to a taxpayer's account (i.e. identified by name, social security number, etc.), is to explain that the IRS cannot answer these questions by e-mail and refer the questioner to the IRS unit designed to respond to account-related questions.² See Paragraph 233 of IRM 1272, Disclosure of Official Information Handbook, for requirements for Taxpayer Service telephone requests.

On a separate matter, you should be aware that inquiries and responses by e-mail may raise Privacy Act issues because such inquiries and responses can be electronically stored or transferred to another medium by the IRS. If your project contemplates that they can be retrieved by means of the taxpayer's name and/or identifying number, there is an issue as to whether the IRS would be in compliance with Privacy Act requirements pertaining to a system of records. We understand that Taxpayer Services does not intend to associate telephone or electronic mail inquiries or responses with the accounts or IRS records of any individual taxpayer.³ We further understand that the system automatically deletes the questioner's e-mail address from IRS computers as soon as the answer is sent.⁴ Although these steps would appear to deal with the Privacy Act system of

² Taxpayers posing account-related questions are typically referred to the toll-free IRS help number (800-TAX-1040).

³ We understand that questioners do not identify themselves except by their return electronic mail addresses, which may or may not be being used by the electronic mail addressee.

⁴ The bare questions and answers are forwarded to the Detroit Computing Center for purposes of compiling a collection of frequently asked questions and to Compliance Research, which is using the compiled data to help automate the "Ask the IRS" project.

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records issues, we suggest you coordinate the details of your efforts with the Office of Disclosure to ensure that the requirements of the Privacy Act are in fact satisfied.

In summary, based on our understanding of the "Ask the IRS" project, we believe the IRS may respond to general tax law inquiries submitted by electronic mail in the same manner as it does with similar questions received by telephone.

Please contact Jamie Bernstein at 622-4570 with any further questions on this matter.

/s/ Joseph J. Urban
JOSEPH J. URBAN

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